



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable Chas. R. Martin
County Auditor
Harrison County
Marshall, Texas

Dear Sir:

Opinion No. O-6381

Re: Whether the Commissioners' Court of Harrison County can legally allow the Sheriff and his deputy a flat sum of money each month for the use of their personal owned automobiles.

Your letter of February 26, 1945, requesting the opinion of this department on the question stated therein, is, in part, as follows:

"I have before me a copy of your opinion number O-6381, dated January 31st 1945, which has reference to mileage allowed Sheriff and deputies in Dallas County, and in answer to an inquiry as to whether or not the Commissioners' Court could allow a flat sum each month for the use of their personally owned automobiles.

"Q. The population of Harrison County is 50,900. Should the Commissioners' Court decide that it would be to the best interest of the county to allow the Sheriff and deputy a fixed sum each month for their personally owned automobile, based on the four cent per mile basis, with the understanding and the order to so state, that the total amount for the use of the automobile will not exceed \$50.00 per month, or any reasonable amount per month, based on the four cent per mile basis, for miles actually traveled while on business for the county, and requiring the officers to make the proper affidavit each month as to actual mileage traveled on county business, and not to exceed a fixed sum, agreed upon with the Sheriff and the Commissioners' Court?

" "

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Our Opinion No. 0-6381, mentioned in your inquiry, is based upon Section 19 of Article 3912e, Vernon's Annotated Civil Statutes. This section of the statute is applicable to those counties having a population in excess of 190,000 inhabitants according to the last preceding Federal Census. Harrison County has a population of 50,900 inhabitants according to the 1940 Federal Census, therefore, Section 19 of Article 3912e is not applicable to said county.

Section (b) of Article 3899, Vernon's Annotated Civil Statutes, is applicable to all of those counties containing a population of less than 190,000 inhabitants according to the last preceding Federal Census whose officers are compensated on an annual salary basis. The county officials of Harrison County are compensated on an annual salary basis and said Section (b), Article 3899, is applicable to said county. Section (b) of Article 3899 provides in part as follows:

" . . .

"The Commissioners Court of the county of the sheriff's residence may, upon the written and sworn application of such officer, stating the necessity therefor, allow one or more automobiles to be used by the sheriff in the discharge of official business, which, if purchased by the county shall be bought in the manner prescribed by law for the purchase of supplies and paid for out of the General Fund of the county and they shall be reported and paid in the same manner as herein provided for other expenses.

"Where the automobile or automobiles are owned by the Sheriff or his deputies, they shall be allowed four (4¢) cents for each mile traveled in the discharge of official business, which sum shall cover all expenses of the maintenance, depreciation, and operation of such automobile. Such mileage shall be reported and paid in the same manner prescribed for other allowable expenses under the provisions of this section. No automobile shall be allowed for any Deputy Sheriff except those regularly employed in outside work. It shall be the duty of the County Auditor, if any, otherwise the Commissioners' Court, to check

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the speedometer reading of each of said automobiles, owned by the county once each month and to keep a public record thereof; no automobile owned by the county shall be used for any private purpose. . . ."

In answer to your question you are respectfully advised that it is the opinion of this department that our opinion No. 0-6381 is not applicable to the question under consideration and that the Commissioners' Court of Harrison County has no legal authority to allow the Sheriff and his deputies a flat sum or amount of money each month for the use of their personally owned automobiles used in the discharge of their official business. The Sheriff and his deputies are entitled to be allowed four cents (4¢) for each mile travelled in the discharge of official business where the automobile or automobiles are owned by the Sheriff or his deputies.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED MAY 6 1945


ATTORNEY GENERAL OF TEXAS

By


Ardell Williams
Assistant

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